

FILED '08 DEC 12 10:14 USDC-ORE

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF OREGON

MICHAEL DAVIDIAK,

Plaintiff,

v.

MICHAEL J. ASTRUE,
Commissioner of Social Security,

Defendant.

Case No. 6:07-cv-1737-AA

JUDGMENT AND ORDER OF REMAND

Based on the stipulation of the parties, it is hereby ORDERED that the above-captioned case be REVERSED and REMANDED for further administrative proceedings pursuant to sentence four of 42 U.S.C. § 405(g). On remand, the ALJ shall hold a de novo hearing; shall not apply the doctrine of res judicata to the claim denied on August 21, 2002; and shall consider whether the claimant was disabled during the period of April 29, 1999, through September 30, 2002. If the ALJ determines that the claimant was disabled during that period, the ALJ shall also consider whether the claimant's disability continued after September 30, 2002.

Plaintiff is entitled to reasonable attorney fees and costs pursuant to 28 U.S.C. § 2412(d), upon proper request to this Court.

JUDGMENT is entered for Plaintiff, and this case is closed.

DATED this 11 day of December 2008


UNITED STATES DISTRICT JUDGE

Presented by:



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